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1 BEFORE THE AMERICAN ARBITRATION ASSOCIATION
2 NORTH AMERICAN COURT OF ARBITRATION FOR SPORT PANEL
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8 UNITED STATES ANTI-DOPING)
AGENCY,)
9 Claimant,)
10 vs.) AAA No.
11 FLOYD LANDIS,) 30 190 00847 06
12 Respondent.)
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TRANSCRIPT OF STATUS CONFERENCE

April 24, 2007

Los Angeles, California

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1 Tuesday, April 24, 2007, 6:05 p.m.
2 ***
3 MR. BRUNET: Hello, everyone. The agenda for today
4 references the one that was circulated by Mr. Suh.

5 However, I would like to send it out to the parties or
6 panel members if you've had any other thoughts or items
7 that you would like to add to the agenda at this point
8 in time. Are there any suggestions of other --

9 MR. CAMPBELL: I just want to get the agenda items.

10 MR. SUH: Mr. Campbell, I could repeat them for you.
11 Also, if you are with your computer, I could reforward
12 the e-mail so that you have it without having to look
13 for it. What is your preference?

14 MR. CAMPBELL: Well, Mr. Suh, what is the date of
15 that e-mail 'cause I'm right at my computer, and I know
16 I have it.

17 MR. SUH: It was sent on my time Monday at 8:03 a.m.
18 And just -- if this is of any ease, I am actually in
19 the middle of resending it again to everyone. So I've
20 just sent it to everyone.

21 MR. BRUNET: This is Patrice Brunet. For the
22 benefit of Mr. Campbell and others, I will recite the
23 six points that appeared on the documents. The first
24 point being the response to the second request for
25 documents. Point No. 2 is the proposed witness order.

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1 Point No. 3 is the proposed media order. Front slash
2 Media Consultant. Fourth point is the proposed
3 confidentiality order. The fifth point is a briefing
4 schedule. The sixth point is the setting of the final
5 status conference.

6 Are there any other points that the parties or
7 the panel members would like to add to those six points?

8 MR. CAMPBELL: This is Chris Campbell. I do want to
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9 discuss the publication of the B sample test results.

10 MR. SUH: This is Maurice. The only other item, of
11 course, we do want to talk a little bit more about our
12 request for continuance. I know that this was addressed
13 by Mr. Brunet's e-mail, but I would like to put at least
14 that on the agenda for a little further discussion.

15 MR. BRUNET: So we will have No. 7, the result B
16 test; and No. 8, the request for continuance.

17 Anything else? All right. So let's get right
18 into it.

19 Point No. 1 -- and those are mainly the points
20 that was Mr. Suh was raising; so I may address some of
21 them, but I'll turn it over to Mr. Suh.

22 On the first point, the response to second
23 request for documents. Mr. Suh, do you have any --

24 MR. SUH: Surely. I think our concern was twofold.
25 The first concern was that until the panel's final order

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1 on the second request for documents was issued, the
2 USADA, I believe, didn't understand the scope of what
3 they were supposed to continue to provide. Again for
4 us this has proven to be an issue because it relates
5 directly to the preparation of our trial brief. And so
6 that was our first concern.

7 The second concern is that even during the call
8 last time, USADA indicated that it would get back with
9 us with further follow-up information within one week's
10 time, and that was at the specific questioning of
11 Mr. Campbell. And we have not heard anything back. And

12 again the response to the second request for documents,
13 both as to the specific remaining items, as well as to
14 the EDF's strongly impact our ability to prepare our
15 trial brief, number one; and number two, to be
16 responsive to some of the issues raised in USADA's trial
17 brief.

18 MR. BRUNET: Mr. Suh, there have been a lot of
19 documents that have been circulating in the past few
20 days. Could you point the panel to the specific
21 document that you raised with the panel in order to help
22 you with this? There are outstanding issues that you're
23 referring to on the document that you're still waiting
24 for.

25 MR. SUH: well, I think -- yes. I mean, the issues

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1 that we're waiting for --

2 MR. CAMPBELL: Mr. Suh, this is Chris Campbell. You
3 had written a letter outlining exactly what you needed
4 more of.

5 MR. SUH: That's right. It's the letter that was
6 dated April 5 of 2007, and it went into in, I think,
7 some detail what it is we wanted. And as you will
8 recall, on April 11 we had substantial discussion about
9 all of these items. And we have not achieved resolution
10 on them. And let me say the items are very important to
11 our ability to prepare, in particular, our trial brief.

12 And Mr. Brunet, let me give you one example in
13 response to your question. One of the large outstanding
14 issues was the delivery or the potential delivery on the
15 scope of the standard operating procedures of the

16 laboratory. And we were told several different things
17 during the course of the April 11 call.

18 Those things were, number one, USADA said it
19 wasn't sure whether or not there were standard operating
20 procedures. At one point we were told that standard
21 operating procedures were already provided to us. And
22 then, thirdly, we were told that to the extent that they
23 weren't sure about that, they would get back with us to
24 see whether or not they, in fact, existed.

25 The reason why this is important, of course, is

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1 that we have not -- that in USADA's trial brief, it
2 references procedures and protocols that very much
3 appear to come from standard operating procedures. And
4 again we don't have a resolution on that issue, and
5 those are big issues. It's not just that we have
6 received pages of documentation. It's that we haven't
7 received the pages of documentation that relate to the
8 issues in the case.

9 I mean, when we started the status conference
10 hearing on this matter on the discovery on February 22,
11 February 23, there were two large categories of items
12 that resolved or was our attempt to resolve a large
13 number of discovery requests. One of those were the
14 electronic data files that go to the carbon-isotope
15 ratio testing. And the other was the standard operating
16 procedures.

17 If you recall, Mr. Brunet, that we received
18 some but not others. And Mr. Young's comment was

19 something to the effect of "No good deed goes
20 unpunished." We just don't have any resolution on those
21 issues, and those are central to the preparation of our
22 defense. The other pages we have received --

23 MR. BRUNET: Mr. Suh, looking at your letter of
24 April 11, where the first section you name some
25 witnesses that you listed be present in person at the

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1 hearing. I understand that's been resolved over the
2 past hours.

3 The second point is the list of SOP's for his
4 defense. Have you had any response from USADA on those
5 requests?

6 MR. SUH: I'm sorry, Mr. Brunet. I don't mean to
7 interrupt. We have not achieved a resolution on the
8 witnesses that would attend. We have a disagreement.
9 We provided the panel with the follow-up e-mail
10 indicating who we thought should attend pursuant to the
11 panel's direction, but we have not resolved any of those
12 issues.

13 MR. BRUNET: I'm sorry, Mr. Suh. Which parts of
14 those issues have you not resolved at this point? My
15 understand was that the issues that were not resolved
16 were the names of the witnesses that USADA said they
17 would make those witnesses available but not necessarily
18 in person. And you insisted that four of those
19 witnesses, in addition to Mr. Mark mark and Ms. Magongu
20 be present at the hearing. And I circulated a few hours
21 ago a message from the panel to the effect that they
22 were to appear in person.

23 Now, is there anything else that is unresolved
24 with respect to witnesses?

25 MR. JACOBS: I don't think we got that e-mail.

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1 That's the confusion. This is Howard Jacobs. If you
2 sent an e-mail saying that those witnesses are to appear
3 in person, I have not seen that yet.

4 MR. BARNETT: And Mr. Brunet, this is Matt Barnett.
5 We haven't received it, either.

6 MR. SUH: Yeah. That's why I was confused. We
7 haven't received -- I haven't. Howard hasn't seen it.
8 I hasn't seen it.

9 MR. MCLAREN: I think it got circulated amongst us
10 but didn't get to the counsel.

11 MR. BRUNET: That's what I realize now. I'm looking
12 at my computer, and for some reason it got stuck in my
13 out box. Bear with me.

14 You should receive that procedural order No. 4
15 either during the conversation or very shortly after.
16 I'll find another way to send it out.

17 MR. YOUNG: This is Richard Young. As a
18 clarification, are we paying for that, or are they
19 paying for that?

20 MR. BRUNET: It's not something that was addressed
21 in the procedural order.

22 MR. YOUNG: Richard Young again. Can we have an
23 answer to that, particularly, if they're calling
24 witnesses that we were not otherwise going to bring.

25 MR. BRUNET: You're making submissions to the effect

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1 that some of those witnesses or all of witnesses would
2 be to the cost of the athlete?

3 MR. YOUNG: Correct.

4 MR. SUH: And this is Maurice. We, of course, would
5 object to that proposal. Again, this was a result of an
6 offer by USADA to make those witnesses available. And
7 in the context of that offer, it was clear that those
8 people would be here in person. To at this hour turn
9 around and suggest that the athlete pay for it out of
10 his own pocket is contrary to the clear meaning of what
11 occurred during the course of that status conference,
12 and it's just not right.

13 MR. YOUNG: Richard Young. We have obviously have a
14 very different view of that. We've told counsel that we
15 would make witnesses available by telephone. They
16 objected to that, and then we said that's fine. We
17 would do it by video conference, and Mr. Suh even said
18 they had a video conference in their Paris office.

19 But the panel ought to do what the panel thinks
20 is correct.

21 MR. BRUNET: The panel will certainly take that
22 under advisement. If the parties want to submit written
23 observations on this. I think the panel has the
24 position of the parties which are quite simple.

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1 MR. SUH: Mr. Brunet, am I clear in understanding
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2 that procedural order No. 4, which we will receive
3 shortly, addresses the response to the second request
4 for documents? Or should we go back to talking about
5 that?

6 MR. BRUNET: Well, we can go back to talking about
7 that because the panel is not clear as to the level of
8 conversations that occurred between the parties and
9 where you were standing both. Because the last document
10 that I have is dated April 11 that is signed by Mr. Suh,
11 but I don't have any reply from USADA on the various
12 SOP's that are requested. A blank refusal to provide
13 them. Are you getting them at the present time? If
14 they are refusing them, what is their position on the
15 basis of refusal?

16 Mr. Young, do you have any observations?

17 MR. YOUNG: Yeah. This is Richard Young. Let me
18 give you an answer on that.

19 The background was certainly mischaracterized
20 by Mr. Suh. We haven't been all over the place. What
21 we've said is, one, from the beginning under the
22 technical documents, we don't have to produce those, but
23 we have produced them. And the sum that we have
24 produced are those SOP's that relate specifically and
25 only specifically to the TE and the IRMS.

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1 After our last hearing, we got the list of the
2 other SOP's that Respondent wanted. We've given that to
3 LNDD. They've organized those documents, and if they
4 aren't delivered today, they'll be delivered by tomorrow

5 morning.

6 MR. BRUNET: So there are still some SOP's that have
7 not been delivered, but those may be in the package that
8 can you're sending to Mr. Suh?

9 MR. YOUNG: That's right. Because what they're
10 asking for is SOP's that go beyond just the SOP's, that
11 go to TE ratio or IRMS. They are more general SOP's
12 that apply to TE ratio and IRMS, but they apply to other
13 things. And those are additional SOP's Mr. Landis
14 agreed to produce.

15 MR. BRUNET: This is Mr. Brunet. In your
16 correspondence to Mr. Suh, I would assume you would
17 outline the SOP's that you are sending and then the
18 SOP's you are not sending because they're not part of
19 the SOP that you should be sending? Is there going to
20 be an itemized list such as that?

21 MR. YOUNG: We'll itemize what we're sending. And
22 we are not intentionally holding anything back that's
23 responsive to or directly responsive to the specific
24 request in his letter.

25 Just so that everybody knows, there are lots

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1 and lots and lots of SOP's generally that it doesn't
2 appear to us that he's asked for. But if he sees the
3 response and thinks it's not what he asked for, then I
4 expect we'll hear back.

5 MR. BARNETT: This is Matt Barnett. Just to expand
6 on that response, where there's been an SOP requested
7 for LNDD on that specific list and LNDD does not have an
8 SOP, we will so note. And we will also so note where we

9 believe the SOP requested has already been provided.

10 MR. BRUNET: We'll send that message on the SOP's
11 within 24 hours?

12 MR. YOUNG: Yes.

13 MR. BRUNET: And there's a last point that Mr. Suh's
14 touching in his April 11 correspondence, and I'm quoting
15 that there are two pages which from the context of the
16 documents are clearly only one sample of his study
17 related to the effect of testosterone administration on
18 carbon-isotope ratio testing over a several-day period;
19 that Mr. Saw requests that the data from the rest of the
20 subject of the study or to receive confirmation only
21 consisted of one individual.

22 Can you also address this point in your
23 correspondence?

24 MR. YOUNG: We can or we can address it right now if
25 you prefer.

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1 MR. BRUNET: You can address it right now, but I
2 would also expect for you, so that we could close the
3 loop, if you can address it in your correspondence.

4 MR. YOUNG: This is a study that was done -- a
5 broader study was done by U.C.L.A. where they gathered
6 data. They are reporting the data out not all at once
7 but as some substudies, subreported studies, if you
8 will.

9 And, Matt, what was the response? Do you have
10 the exact words of the response we got from U.C.L.A.?

11 MR. BARNETT: This is Matt Barnett. I do not have

12 the exact words of the response at this time. we've
13 actually asked Dr. Kaplan to provide us in writing with
14 his response which we will attach to the letter if we
15 receive it. I have not received it as yet.

16 MR. YOUNG: Okay.

17 MR. SUH: Mr. Brunet --

18 MR. BRUNET: Yes, Mr. Suh.

19 MR. SUH: I suppose in order to finally close the
20 loop, there were -- there was at least one other issue
21 in the proposed order on the second request for
22 documents, and that related to the declared negatives
23 for 2004 and 2005.

24 As you may recall, there was a discussion about
25 whether or not those files were in electronic form or

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1 not or available or not, and we were supposed to hear
2 back again from USADA within one week, per
3 Mr. Campbell's direction. And we hadn't heard anything.
4 It's been two weeks. But let me say this: I think it
5 would be also helpful to have the final ruling from the
6 panel on these issues because to the extent the panel
7 rules --

8 well, let me put it this way: The way the list
9 of SOP's was generated, as you may recall, was this. We
10 heard argument on whether or not the SOP's, as a general
11 rule, should be required to be delivered. At the end of
12 that argument, which took up a good portion of the
13 April 11 call, we asked whether or not the matter was
14 submitted to the panel. Both parties asked whether or
15 not the matter was submitted to the panel. And the

16 panel indicated yes, that it did not need to hear any
17 further argument from the parties. A sentiment I am
18 sure that the panel has felt on more than one occasion.

19 Having said that, at the end of that,
20 Mr. Campbell directed me, in order to help the panel's
21 decision making, to do two things. One is to send a
22 list of witnesses and also to describe generally the
23 kinds of SOP's that we wanted to receive. That is what
24 caused the generation of the letter that you're
25 referring to.

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1 So I guess to close the loop, it would be
2 helpful if the panel would issue a final order on the
3 second request for documents. And again, I mean, not to
4 constantly restate this, but we are in the middle of
5 this issue right now. So it's particularly fresh on our
6 minds. But the preparation of the trial brief without
7 the SOP's that we have been asking for is really
8 impossible.

9 I mean, we are being told by USADA that they
10 have complied with everything they need comply with.
11 But we don't have their SOP's which will allow us to
12 determine whether or not that's true or not. And I
13 don't see how we can actually provide a response which
14 will either be complete or will be what actually
15 resembles what we will present at the arbitration if it
16 differs. And right now we this don't have any of those
17 documents. Those documents are things that we simply --
18 we needed to have in advance of this preparatory phase.

19 I mean, for example, what would happen if we
20 had available to us in argument that a procedure wasn't
21 followed yet we did not have the opportunity to raise
22 that. It would be a GCMS issue; it could be a
23 laboratory documentation issue; it could be an IRMS
24 issue. Those are things which we were are not -- we
25 don't have before us. And it's simply not fair for us

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1 to be in a position of -- given the state of the
2 document production for us to be forced to prepare a
3 trial brief that is supposedly responsive to USADA's
4 brief at this time.

5 And you know, I don't need to go on and on with
6 this forever, but let me say this. I mean, it's readily
7 apparent from their brief that they seem to understand
8 what the requirements of the laboratory are. They make
9 reference to a number of items which they could only
10 know by knowing what laboratory requirements are. And
11 so, I mean, I believe that they have had access to those
12 documents. And we are being forced to respond to them
13 without having access to those documents.

14 So lastly, I would question this. I mean, if
15 in fact they had those documents all along, I don't see
16 why we are in the process of receiving them either the
17 day before or the day of the due date of our trial
18 brief. Frankly, I find that timing remarkably
19 convenient for USADA.

20 MR. YOUNG: This is Richard Young. We haven't seen
21 any SOP that Mr. Suh hasn't seen, and we will -- as soon
22 as we get one of the SOP's he's requested in our hands,

23 we will put together the cover of what we are producing,
24 what they said they don't have, and we will send it on.

25 MR. BRUNET: Thank you, Mr. Young.

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1 If I can understand your concern, Mr. Suh,
2 through that and if you allow me to frame it, your
3 concerned that you would be filing your brief -- the
4 deadline is today or tomorrow.

5 MR. SUH: It's tomorrow.

6 MR. BRUNET: The benefit of some of the SOP's that
7 Mr. Young may be sending you over the next 24 hours.
8 Mr. Young states that you have all the SOP's, but he's
9 still going to do a final review.

10 MR. YOUNG: Excuse me, Mr. Brunet. We are sending
11 the SOP's that were requested in the April 11 letter.
12 And so he does not have those yet. He will have those
13 by tonight or tomorrow morning. So those are the
14 additional SOP's. I just didn't want confusion that he
15 has all of them because there's a last group that he
16 does not have.

17 MR. JACOBS: Well, I have a hard time understanding
18 how USADA can know that we're going to have these
19 tonight if they've never seen them before.

20 MR. BRUNET: I'm sorry? Can you repeat your
21 question, Mr. Jacobs?

22 MR. JACOBS: Sure. The representation is made that
23 we're going to have all these SOP's tonight right after
24 the representation was made that USADA has never seen
25 those SOP's. Those statements seem very inconsistent to

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1 me.

2 MR. BARNETT: This is Mr. Barnett, and I'll be happy
3 to answer.

4 we've been operating on many fronts as the
5 other side knows, and we have received these documents
6 today and have been looking at them to confirm that
7 they're the right documents and preparing the response
8 of which I told you the categories before. And I will
9 be happy to provide the transmittal e-mail which
10 indicates that we received them within the last six
11 hours. And we're trying to prepare our response. And
12 the other side knows that we were on a call with
13 Dr. Botre earlier today. So this is not as if this is
14 our only thing to do, and we're happy to provide these
15 as soon as we possibly can.

16 MR. JACOBS: Well, the sooner the better given that
17 we have a brief due.

18 MR. BRUNET: This is Mr. Brunet. Your brief is due
19 tomorrow, gentlemen. If the receipt of those SOP's and
20 that specific portion of those SOP's you find that may
21 need to be addressed in your brief, I think that the
22 panel would allow you to complete your brief within a
23 very short period of perhaps 24 hours after you receive
24 those SOP's. Is that something that would resolve this
25 matter?

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1 MR. JACOBS: This is Howard Jacobs. That's, with
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2 all due respect, impossible to answer since we've never
3 seen the SOP's and 24 hours is a remarkably short period
4 of time.

5 We've been asking for these documents for six
6 months. And now we have 24 hours to review them and
7 respond. That doesn't seem fair.

8 MR. BRUNET: I'm going to allow you to review the
9 SOP's and come back immediately to the panel with your
10 assessment.

11 MR. SUH: That would be fine. That's a good
12 proposal, Mr. Brunet.

13 MR. BRUNET: I would like to strike the proposal and
14 suggest rather that you consult -- once you receive the
15 SOP's that you consult with USADA, and hopefully you can
16 resolve this between the two of you and then for the
17 panel to intervene if you're still in a deadlock. But I
18 would strongly suggest that you resolve this matter
19 between the two of you.

20 MR. JACOBS: Meaning that we should go to USADA and
21 try to come to some agreement as to how long we get to
22 address the issues raised in the SOP's?

23 MR. BRUNET: That's right.

24 MR. JACOBS: We can try to do that.

25 MR. YOUNG: This is Richard Young. It would be my

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1 understanding that we would still get their brief but
2 they would have an additional period of time to
3 supplement to the issues raised in the SOP.

4 MR. SUH: No, that is not our understanding. That

5 is not our understanding. And it is frankly, as we have
6 been talking about, a frankly disingenuous suggestion.

7 The issue is this -- and I've tried to give a
8 couple of examples during the course of this call. The
9 issue is that throughout the brief, their brief, it lays
10 out arguments that the things that have occurred at the
11 lab occurred in a manner which was consistent with --
12 I'll just put it broadly -- good laboratory practice.

13 As part of that argument, there is substantial
14 portion of the brief that's taken up with a discussion
15 about how that was -- how that good practice was
16 accomplished with the laboratory's own processes. That
17 analysis is impacted by the SOP's because the SOP's, of
18 course, define what is good practices -- what are good
19 practices. And there is no way to carve out the, quote,
20 SOP part because the SOP part is really the part which
21 relates specifically to whether or not things were done
22 appropriately or not. And that's the entirety of the
23 case. That is the case.

24 MR. CAMPBELL: Mr. Suh, this is Chris Campbell. One
25 thing I'm trying to understand in terms of -- and I just

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1 don't have it in front of me. Maybe Richard can help
2 me.

3 Right now we have the briefing schedule, for
4 you to file your -- I guess it would be in opposition --
5 on the 25th. And the it's my understanding that USADA
6 would file their reply on what date?

7 MR. SUH: The reply is due, I believe, the 2nd of
8 May.

9 MR. CAMPBELL: Now, are there any further briefing
10 that takes place after the 2nd?

11 MR. SUH: We are to submit witness lists and summary
12 of testimony by the 4th of May.

13 MR. CAMPBELL: Well, my question becomes -- I mean,
14 I just want to get both your parties' feelings about
15 this. What if we push this briefing schedule where the
16 reply would be due May 9, USADA's reply would be due
17 May 9. And then we would adjust everybody else's brief
18 accordingly. Is that something scheduled for the
19 hearing on the 14th?

20 MR. YOUNG: This is Richard Young. Let me make two
21 points, and I'll address yours first, Mr. Campbell.

22 As you recall in our very first conference
23 call, we asked Respondent to tell us what their defenses
24 were going to be, and they have given pieces, but
25 they've refused to tell us what all their defenses are

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1 going to be, and we're not going to know what witnesses
2 we have to call until we see what their defenses are.
3 We still don't know whether they're going to raise any
4 medical issues, for example. So that's the first point.
5 So anything that pushes back our finding out what their
6 defenses are going to be is not agreeable to us.

7 Second, you asked about other briefing. As you
8 know in our opening brief, we reserved the right to
9 submit supplemental briefs on two issues when we got the
10 information. One would be the retesting that took place
11 in Paris. Second would be what we get from them in

12 response to their document production, which is due
13 tomorrow. And then the third issue -- and I assume that
14 they would take the same position on the electronic data
15 file information. And then the third question while I
16 have the floor is, Mr. Brunet, you were about ready to
17 say something when Mr. Suh spoke over you, which was
18 what your understanding would be whether they file a
19 brief and supplement it on the SOP's or whether they
20 don't. And I never got to hear what you said 'cause he
21 spoke louder.

22 MR. BRUNET: Well, that was the suggestion to
23 respect to the briefing schedule that we had established
24 on the 23rd of March. The respondent has known since
25 that time that they have an April 25 deadline to (audio

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1 breakthrough). However, there are some documents that
2 the Respondent may receive over the next 24 hours. So
3 the respondent will -- I can't imagine that the
4 Respondent has not completed or almost completed his
5 brief. So that would be filed today or tomorrow. And
6 any additional representations the panel could receive
7 within a very short delay after the Respondent receives
8 the additional -- the SOP's.

9 So I'd like to focus on this point because
10 we're looking at the schedule here, and we had
11 established very, very tight schedule that could not
12 suffer any delays in order to respect our May 14st
13 first day of the hearing. So we're trying to resolve
14 this in as much a fair way as possible. To entertain
15 the idea of pushing back the whole brief on the

16 Respondent by even a week would have a domino effect
17 that would have a very negative impact on this case.
18 And I'm not talking the public impact, of course. I'm
19 talking about redoing a lot of the work here, which
20 would not be in the benefit of any of the parties.

21 MR. CAMPBELL: Mr. Brunet, this is Chris Campbell.
22 I think Mr. Suh had submitted requests for his EDF files
23 over a month ago or more, and we know that that was
24 going to be part of his case in chief. And we don't
25 even know when he's going to get the access to

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1 information to his files. So I don't think it's fair to
2 say that he's known since March 23 that his brief is due
3 on this date. Certainly, he hasn't known the fact that
4 he wouldn't be getting this information. He should have
5 gotten it a long time ago. So that's my concern.

6 It seems to me that we should work out some
7 sort of reasonable plan for him to be able to have this
8 information before he puts his brief together.

9 Now, that brings me to the question of -- and I
10 know you've go to talk to Dr. Botre. What's the timing
11 on getting the information from the EDF file? Do we
12 have any information on that?

13 MR. SUH: Yes, Mr. Campbell, we do. We have agreed
14 that Dr. Botre would appear at 1:00 p.m. at LNDD in the
15 presence of both USADA's experts and our experts for the
16 process of retrieval of the EDF's and that during that
17 time they would meet and confer about the instructions
18 to be provided for the analysis to be run on the EDF's

19 on the 26th and if there were disagreement, that we
20 would be called shortly thereafter, the parties would be
21 called, and we would attempt to work it out. Failing an
22 attempt to work it out, we would involve the panel's
23 participation. You know, we believe from speaking
24 with -- from our experts at the very least that the
25 process of performing the removal of the EDF's and the

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1 analysis can be done relatively quickly after that event
2 occurs. And so that is the current schedule in place.

3 MR. CAMPBELL: This Chris Campbell. When you say
4 "relatively quickly," can you give me a little more
5 definitive time line?

6 MR. SUH: I believe -- I don't know because that
7 conversation is still going to take place. I believe
8 that we can get a more specific timeframe for you
9 tomorrow, which I will send to you by e-mail. But we
10 are talking about a matter of days and not a matter of
11 weeks, obviously.

12 MR. CAMPBELL: So is it your understanding -- this
13 is Chris Campbell again -- that you should have all that
14 information by April 30?

15 MR. SUH: We're not sure. But I mean, given the
16 timeframe, we obviously want it as quickly as possible.
17 I'm just not sure exactly how long. I mean, obviously,
18 if we could get it by the 27th, that would be terrific.
19 And April 30 would be great also. We're going to try to
20 get it as quickly as possible. It doesn't -- it
21 certainly doesn't benefit us at all for there to be
22 delay on having these operations done. And I will

23 mention, without going into the entirety of the
24 background, that ever since the briefing schedule was
25 set, we were plainly aware that our brief would be due.

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1 And on account of the knowledge that our brief would be
2 due, we've tried to move this process forward on our
3 end. We have sent the panel e-mails and letters
4 requesting an update on the status. And, in fact, this
5 call today is a result of that very concern, that it
6 seems like the schedule is coming crashing down on us.

7 If there was anything we could have done to
8 make USADA comply with the discovery obligations or to
9 get the EDF's sooner, we certainly would have done it.
10 We don't want to be in this situation ourselves. I
11 mean, it's a terrible situation for us to be, in to be
12 receiving data so close to the beginning of the
13 arbitration. There's literally no advantage to it from
14 our end. So we have been cognizant of it, and we've
15 tried.

16 MR. BRUNET: This is Mr. Brunet. Do you have the
17 briefing schedule in front of you, by any chance? The
18 briefing schedule that was sent on March 23?

19 MR. SUH: I can get it. One second.

20 MR. BRUNET: While you're trying to get it, I've
21 been trying to send procedure order No. 4 to the
22 parties. If anybody's on line to confirm that they've
23 received it.

24 MR. CAMPBELL: This is Chris Campbell. I've
25 received it twice.

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1 MR. BARNETT: This is Matt Barnett. We received it
2 as well.

3 MR. JACOBS: As have we.

4 MR. SUH: Yes, we have it. I have the e-mail in
5 front of me.

6 MR. BRUNET: Okay. I'll stop sending it, then.

7 MR. CAMPBELL: This is Chris Campbell. As I'm
8 looking at these time lines and appreciating what
9 everybody has said, our hearing's scheduled to start on
10 the 14th of May. I mean, there is between now and then
11 close to 17 days perhaps between now and May 14.
12 There's 19 days.

13 It seems to me we'll be able to work out some
14 reasonable resolution in that 19-day period to allow
15 these parties to get their information and to file their
16 briefs in that timeframe. It seems we can do both. I
17 don't think we have to preclude one or the other.

18 MR. YOUNG: This is Richard Young. I would simply
19 follow the suggestion that Mr. Brunet made, which is
20 that Respondent be allowed to supplement their brief
21 with new information on the electronic data files. It's
22 the same situation as the retesting. It was something
23 that we wished would have happened a lot earlier. The
24 electronic data files is not anything that USADA
25 delayed. We offered to do that back in February. So

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1 they can file a supplemental brief within however many
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2 days the panel thinks is appropriate based on the
3 electronic data file information. We'd be interested to
4 see that and will respond.

5 MR. SUH: Let me throw this out as a compromise.
6 That by tomorrow we would be willing to send over a
7 brief list of defenses so that Mr. Young could be
8 satisfied about the scope of what he needs to prepare.
9 If his issue is that he is concerned we are going to
10 claim that Martians have come down and injected with
11 Mr. Landis with testosterone or that he was abducted by
12 Nazi frogmen and injected with testosterone, we can put
13 those concerns to rest by setting forth a list with a
14 brief description of what we believe our defenses to be
15 based upon the state of the discovery as it stands.
16 That way that should give him some comfort about his
17 preparation. And by the same token, it would allow us
18 to provide a cohesive brief.

19 And one of the issues that we're concerned
20 about in terms of providing a cohesive brief and not
21 providing a supplemental brief is that again a
22 supplemental brief would not necessarily be additional
23 material. It might be material which is different
24 from -- based upon what we learned, different from what
25 we would submit without having the discovery. It would,

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1 in effect, cause us to write a trial brief twice. And
2 that's what I'm concerned about bluntly. I mean, there
3 really is no way, in my mind, to write this trial brief
4 and simply supplement it. In order for it to make sense

5 and to read properly would be to write it again. And
6 given the timing that's left, we simply don't have the
7 personal resources to write it twice.

8 MR. BRUNET: Following up on your suggested
9 compromise, I still haven't heard a date by which you
10 would file that cohesive brief. Is that going to be the
11 end of your conclusion?

12 MR. SUH: Yeah. I suppose it depends when we get
13 the EDF's because we'd have to get the EDF data back
14 quickly. Why don't we go this: why don't we -- I'm
15 looking at the calendar now. Why don't we agree to file
16 it by -- assuming we get the EDF data by the first of
17 May, file our brief by the 4th of May. And then any
18 responsive brief would come in the middle of the
19 following week from USADA. And that is under the
20 presumption that we would send a list of our defense
21 topics over to USADA by tomorrow.

22 MR. YOUNG: This is Rich. May I respond to that?

23 MR. CAMPBELL: Yes, Mr. Young.

24 MR. YOUNG: This is a technical scientific case. It
25 would be nice to know what their list of defense topics

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1 are, but the devil is in the detail, and that is what we
2 would need to get to our experts. So if you see the
3 defenses that have already been raised, you can see this
4 is technical stuff. The list of their defenses that we
5 would need -- what Mr. Suh has suggested is that we end
6 up getting their briefs ten days before the hearing and
7 then in the last ten days before the hearing we have to
8 then start preparing a responsive brief. That's

9 outrageous. There are all sorts of issues that they can
10 address that will give us a fair opportunity to deal
11 with them now. And if they need to supplement
12 electronic data files -- I mean, God forbid that they
13 should file a brief now and then have to change their
14 theory of defense. But if that's what the electronic
15 data files show, then they'll have that opportunity to
16 do it.

17 MR. JACOBS: You know, I have to say -- this is
18 Howard Jacobs. It's hard to stomach outrage over having
19 to prepare in ten days when that's exactly what we're
20 being forced to do, only it's going to be less than ten
21 days. We've been asking for this data for six months.
22 We still don't have it. We have a hearing on May 14,
23 and we're being asked to do exactly what Mr. Young finds
24 so outrageous of a request on them.

25 MR. SUH: And further, I guess let it not be lost

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1 that from Mr. Young's own comment, they intend to bring
2 in the testing as it relates to seven entire new test
3 results or more -- I don't know how many they're going
4 to try to use -- right during the same timeframe, which
5 would give us not a matter of ten days but what amounts
6 to a matter of hours. I mean, when we balance out what
7 the relative imposition is on the parties, Mr. Landis
8 has taken the imposition entirely upon his shoulders.
9 And if anything, what Mr. Young's comment really goes to
10 is that we all need more time. We all need more time to
11 resolve these issues. If truly intend upon bringing

12 seven new RMS results, which we don't have any of the
13 documentation for -- and I would assume that we would
14 get right in the middle of the period of days or weeks
15 before the -- of days, really, before the arbitration
16 begins, we are in a terrible situation. And how is that
17 any different? In fact, it's much worse than the
18 situation that USADA is now complaining about.

19 MR. YOUNG: This is Richard Young. Our suggestion
20 for the electronic data files is the same as the data
21 for the retesting. The retesting data, as soon as we
22 get it, we will file a supplement and get it to them.
23 We didn't suggest holding off on our brief because we
24 hadn't yet gotten the retesting data. And the
25 electronic file data, they ought to file their brief,

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1 and as soon as they get it, they file that. And then
2 you know what? We've got a very short time to respond
3 to the electronic data file.

4 MR. BARNETT: This is Matt Barnett. It has to be
5 noted in this discussion that Mr. Suh's complaint about
6 the retesting and Mr. Jacobs's complaint about the
7 retesting has to be done in the context of the fact that
8 that further analysis would have been done in December
9 or January of last year but for their continued efforts
10 to express that further analysis.

11 MR. JACOBS: well, they could have done it last fall
12 if they hadn't waited. So to place all that blame on us
13 is completely disingenuous.

14 MR. SUH: And moreover, the retesting results are
15 completely separate samples. The EDF's that we're going

16 to get are for this sample. That is an easy thing to
17 supplement. It's like a separate case. But what we are
18 asking for is documents and data as it relates to our
19 own case.

20 MR. CAMPBELL: This is Chris Campbell. I mean, we
21 might be getting ahead of ourselves with these seven
22 tests. But I think I've seen some things going around.
23 And I just wanted to know -- and we can address it
24 later. But wasn't it true that you had an expert that
25 wasn't allowed to see parts of the test? Is that true,

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1 or is that just rumor?

2 MR. SUH: It is absolutely true. It is absolutely
3 100 percent true. And it was done at the direction of
4 USADA's lawyers.

5 MR. BRUNET: Chris, we have Dan Dunn on the phone,
6 who is a lawyer there. And I think it's fair that he
7 give that explanation.

8 MR. DUNN: This is Dan Dunn. I was there last week,
9 and whomever said that it was true that the experts for
10 Mr. Landis were prevented from observing the testing is
11 simply inaccurate. And I can elaborate. The one
12 report, Mr. Campbell, that you heard that on Sunday a
13 Mr. Scott was denied access was directly a result of him
14 making a surprise visit after having agreed with us and
15 with the laboratory that there was no need for anyone to
16 appear on Sunday. And on that premise, both our expert
17 and myself left for the United States, only to find out
18 that Mr. Scott was at the door knocking to get in after

19 having agreed not to appear.
20 MR. CAMPBELL: Hold it a second. Hold it a second.
21 Were there tests going on on Sunday when this guy wasn't
22 let in? That's a yes or no. Were there tests going on?
23 Were their tests going on on the sample on the Sunday
24 when Mr. Scott knocked on the door and asked to come in?
25 It's a yes or a no.

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1 MR. DUNN: The answer to that is there were analysis
2 being run on Sunday, and he fully understood that and
3 agreed that he did not need to appear.

4 MR. CAMPBELL: And he wasn't allowed to come in and
5 see those tests; is that right?

6 MR. DUNN: Well, nobody from USADA was present, and
7 he had agreed not to appear; so that was the reason he
8 was denied access. He had led us to believe that we
9 could go home safely, and we did on the premise that he
10 was not going to appear, and then he appeared contrary
11 to the clear understanding of everybody present,
12 including the lab.

13 MR. SUH: And I will say -- this is Maurice -- on
14 behalf of Mr. Scott, that is not true. That is not
15 true. And it's clear that we're going to have to take
16 this issue up before the panel in greater detail. But
17 it's not true. And moreover --

18 MR. CAMPBELL: I can't speak for the panel, but in
19 my mind that is a critical issue with respect to timing.
20 Because if you have a test that was going on at the time
21 and the expert wasn't allowed, it doesn't seem to me
22 that those are tests that should be allowed in here. In

23 which case, it would save us a whole lot of time and
24 concern. So that seems to be sort of a threshold issue,
25 and that was the issue that I wanted to bring up as my

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1 No. 7.

2 MR. YOUNG: This is Rich. Let me respond to that,
3 and Dan can elaborate later.

4 One of the reasons that we sent both an expert
5 and a lawyer to the retesting was because they sent both
6 an experts and a lawyer and we had concerns with the
7 lawyer in particular would tried to interfere with the
8 process. It's not uncommon during B sample analysis for
9 the experts to maybe because they have they are own
10 legitimate interests but to distract the people that are
11 conducting the analysis. And you have issues where they
12 have to stand back all those kinds of things. Those
13 issues did in fact occur during the analysis. They were
14 worked out because there were two lawyers there and two
15 experts.

16 And so when their lawyer and expert said "we're
17 going home," we decided it was okay to send our lawyer
18 and expert home. That's the first point.

19 The second point is that I don't know the exact
20 number of samples where the analysis had been completed
21 by Sunday, but certainly the majority of the sample
22 analysis had been completed of the three blanks and ten
23 samples had been completed by that Sunday morning.

24 MR. SUH: This is Maurice. Let me respond to that
25 statement. First of all, we did not send a lawyer.

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1 Paul Scott is a person who was formerly employed at the
2 U.C.L.A. laboratory. He is not a practicing lawyer.
3 He's not even licensed in the state of California where
4 he lives. He does not practice law. He practiced law a
5 long time ago. To say that we sent a lawyer, nothing
6 further from an accurate picture of what actually
7 occurred could be stated.

8 MR. BRUNET: Mr. Suh --

9 MR. SUH: Yes.

10 MR. BRUNET: I hate to interrupt. This is Patrice
11 Brunet. Although I appreciate the discussion going over
12 this point, I feel we're off the agenda and many of the
13 allegations and what I'm hearing now will certainly
14 benefit from being represented in written manner because
15 I don't think we will resolve anything during this
16 conference call over what happened just recently in
17 Paris.

18 Those are serious issues that both parties are
19 raising, and they are credibility issues with most of
20 the players not being even on this mind. In the
21 interest of efficiency, I would rather proceed in a
22 different way and being that USADA intends to bring that
23 evidence that was collected at LNDD recently as part of
24 these proceedings, then there is a process that they do
25 that in writing, and I'm sure that Respondent will

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1 quickly address those, perhaps in the manner that you
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2 have just raised, perhaps in a more elaborative fashion.
3 But I would rather that we return to our schedule and
4 leave this issue aside at this point in time.

5 MR. CAMPBELL: Patrice, when you say -- this is
6 Chris Campbell -- we're going leave this issue aside,
7 does that mean leave this issue aside until we get eht
8 agenda item, or does that mean leave this issue aside
9 until some other day?

10 MR. BRUNET: Well, leave this issue aside until we
11 have an indication as an panel that USADA intends to
12 introduce this evidence into this arbitration because I
13 have not seen that to this date.

14 MR. CAMPBELL: Well, Patrice, that's not acceptable
15 to me because of the timing. I mean, I don't know what
16 date your timing about, what time you're talking about.
17 And we've already discussed in a short time line in this
18 particular issue of all this new evidence that could
19 come in. It seems to me it could be a tremendous waste
20 of time if, in fact, the evidence has been tainted by
21 the failure of the process to allow the expert to see
22 it. And so we should resolve that issue right away, and
23 then we can move on. And when I say "right away," I
24 mean within the next day or two.

25 MR. BRUNET: My concern, Chris, is that we are

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1 hearing the parties argue. He are hearing parties argue
2 testimony that has not been presented directly to us.

3 MR. CAMPBELL: All I'm trying, Patrice, is that we
4 give a time and a deadline as opposed to just giving

5 some nebulous sort of "we're going to wait for USADA to
6 respond" whether they're going to send the document or
7 not. I just want a definitive time for us to address
8 this issue with a definitive briefing schedule if need
9 be. But because it's so important given the time, it's
10 a whole lot of other information. And I would suspect
11 we're going to have discovery disputes about that as
12 well. So if that's an issue that we can sort of wipe
13 off the table pretty quick, it would really simplify
14 things.

15 MR. BRUNET: I see your point, Chris. You're
16 referring strictly to the addenda, and I guess your
17 question was a question directed to USADA when (audio
18 breakthrough). That's pretty much --

19 MR. CAMPBELL: Okay. That's not my question. It
20 seems to me that -- the attorney on the line has said
21 that there expert wasn't allowed into part of the B
22 sample test. So that raises an issue regarding whether
23 the rules were complied with. And it's in my view that
24 we should resolve that issue within the next couple of
25 days at the latest because that really goes to the issue

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1 of whether we'll even let the evidence in or to what
2 extent we let that evidence in, which really addresses a
3 lot of the parties' problems with how much evidence
4 they've got to deal with in a short timeframe before the
5 trial. So I want -- I hear both arguments, but I don't
6 think we need to argue any more, but I think what we
7 need to do as a panel is set a time line for this to be
8 fully briefed and end resolved, I'd say, say two days.

9 MR. BRUNET: Chris, could you be more clear on the
10 time line on what?

11 MR. CAMPBELL: The time line on determining whether
12 the B sample test would be admissible as evidence given
13 that their expert was denied entrance to view it.
14 That's a concrete issue. And as Mr. Young has said,
15 perhaps it would be for some samples and not others. We
16 don't know, but it seems to me we need to have that
17 issue resolved, and I'd like to have that resolved
18 within the next couple days.

19 MR. BRUNET: This would be a preissue to the main
20 issue and, obviously, there would have to be
21 communication between the parties and we may very
22 quickly get to May 14.

23 MR. CAMPBELL: I'm saying not May 14. I'm saying
24 that we would have resolved this issue -- what's today?
25 The 25th. I'd like to have this issue resolved by the

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1 27th or the 28th. I mean, that not even getting into
2 the confidentiality issue.

3 MR. BRUNET: I was hearing noise on the telephone.

4 MR. CAMPBELL: This is Chris. I just think we need
5 to --

6 MR. DUNN: This is Dan Dunn for USADA. I guess I
7 have a couple of reactions to that, Mr. Campbell. One
8 is we would need to procure affidavits from our expert
9 who was there and the laboratory representatives who
10 were there when Mr. Scott and Dr. Davis agreed that they
11 would not show up on Sunday and that we, therefore, did

12 not need to show up. So we're going to have to -- and I
13 don't know their schedules, whether they're available or
14 not. So that's one problem.

15 But may I make a suggestion that, when we
16 tendered the evidence on these other samples, that we
17 can address this question. And Mr. Landis's
18 representatives can state their view of the matter. And
19 as part of this panel's decision on whether to accept
20 those samples or any part of them, it can do so with a
21 fully informed record rather than doing it in piece-meal
22 fashion.

23 MR. CAMPBELL: This is Chris Campbell. You haven't
24 stated when you're going to produce that evidence. And
25 it seems to me there's a whole lot of preparation that

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1 Landis's would have to do at the same time that they'd
2 have to evaluate the document.

3 MR. DUNN: One partial response to that -- this is
4 Dan Dunn again -- is that they were there during the
5 week of the sampling and had full opportunity to review
6 the results; so they know what the results are. They
7 have been -- they had opportunity to ask questions of
8 the LNDD representatives; they had opportunity to see
9 all of the data that was in the packages at that time.
10 so they know what the results are.

11 MR. CAMPBELL: This is Chris Campbell again. That's
12 your argument, and that argument can be presented, I
13 think, within two days. And you should have your expert
14 produce affidavits within two days. I'm sure they will
15 have an argument as well, and their argument should be

16 presented within two days with their affidavit. And we
17 should decide.

18 MR. SUH: And, Mr. Campbell, just -- and the rest of
19 the panel -- to be perfectly clear, that is not what
20 happened during the testing process.

21 MR. CAMPBELL: Mr. Suh, you have an opportunity --
22 you should have an opportunity to make that argument in
23 a couple of days, and they should as well. Let me ask
24 you this, Mr. Suh, because maybe you don't agree. I
25 just think this is a timely issue that should be

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1 resolved sooner than later.

2 MR. SUH: We're ready to start the briefing.
3 Mr. Scott is headed back to Los Angeles. He should be
4 here -- he's on a plane right now. He should be here
5 tonight at 11:00 o'clock. And I will intercept him and
6 have him start drafting the affidavit this evening. It
7 is a pressing issue. I don't know how we are going to
8 prepare to respond to this in a matter of days or hours
9 before the arbitration begins. And I do think we should
10 resolve it because the reality is all of these issues
11 should be resolved holistically. I don't see a
12 particular need to push anything off for the upcoming
13 weeks. It just means the upcoming weeks are going to be
14 harder and more chaotic for everyone involved.

15 If it's going to be excluded on the basis of
16 affidavits or not in ten days, we might as well know
17 that now. We can get that affidavits together, and we
18 can brief it.

19 MR. DUNN: This is Dan Dunn. May I respond to that?

20 My reaction is this: That if the Respondent
21 believes that the evidence should not be considered, as
22 the proponent of that position, it should put its
23 arguments forth, and we should have a fair opportunity
24 to respond. But at most, we're talking, if I understand
25 Mr. Campbell's question, it related to the decision by

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1 the laboratory not to allow Mr. Scott into the premises
2 on Sunday after he had agreed ot to appear. And if
3 that's the narrow issue, we're talking at most a couple
4 of the sample results, not the entirety. So a couple
5 things: One it's a very narrow issue; and, two, if
6 there is evidence that they have about the reasons they
7 were excluded or not, then we'd be happy to respond to
8 it because I think we'll be able to show -- and this is
9 argument at this point -- that there was nothing
10 inappropriate done.

11 MR. SUH: This is Maurice. It is not a narrow issue
12 for us. What we would be prepared to show the panel and
13 to explain to the panel is how, during the process in
14 which our experts were actually allowed in the lab for
15 the first five days, they were excluded from viewing
16 critical parts of the testing, in particular the
17 analysis, and that they were not allowed to ask
18 questions of the laboratory personnel and that this came
19 at the direction of Mr. Dunn, who was there. And that
20 while at the same time Mr. Dunn and their expert,
21 Rodrigo Aguilara had full access to the laboratory and
22 to all stages and processes that were involved.

23 And so there are two issues. There's one of
24 the asymmetrical access during the course of the time
25 that they were allowed inside the laboratory and

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1 secondly, at the time they were excluded entirely. And
2 lastly -- I mean, just to give one example, which we
3 would be happy to brief, we didn't get to see all the
4 results. We didn't get to see critical parts of the
5 results, which we'd be happy to brief.

6 So let's set a briefing schedule. I mean, I
7 think it's a great idea. I'd rather deal with this
8 issue sooner rather than later.

9 MR. BRUNET: What are you suggesting, Mr. Suh, in
10 terms of the briefing schedule because I --

11 MR. SUH: What I would suggest is that --

12 MR. BRUNET: We're trying to assess a credibility
13 simply based on affidavits (breakthrough) testimony,
14 which we've determined the testimony would be presented
15 at the hearing.

16 MR. JACOBS: This is Howard Jacobs. What we would
17 propose is we would submit a motion with affidavits by
18 Friday. USADA could respond by Monday. If the panel
19 wanted to have questioning of the affiants, that could
20 be done in short order afterwards, and the issue could
21 be decided.

22 MR. BRUNET: Mr. Jacobs, are you suggesting that
23 this is a parallel point that you would introduce that
24 would not affect the May schedule?

25 MR. JACOBS: This would be a separate point that we

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1 would brief separately that I think would be decided
2 separately because it does affect how the case is going
3 to be presented on this concrete issue.

4 MR. DUNN: This is Dan Dunn. Mr. Brunet, you
5 started to raise the question about whether this depends
6 on the credibility of the affiants, and I think this
7 just like any other evidence. We would be prepared to
8 present our people and tell the panel what happened.
9 The other side will have its fair opportunity to say
10 what it believes. And the panel can make its own
11 decision about whether the data was gathered in a fair
12 way. So I think a briefing schedule at this point is
13 probably not a good idea from our perspective, but it's
14 the panel's decision to make ultimately.

15 MR. JACOBS: This is Howard Jacobs again responding.
16 I mean, we either brief it now, or we wait and deal with
17 it at the hearing. And waiting and dealing with it at
18 the hearing I think is a terribly inefficient way to do
19 it, especially given that we're going to be hard pressed
20 to finish.

21 MR. CAMPBELL: This is Chris Campbell. Not only
22 would you be hard pressed, but I think's unfair. This
23 is an important issue that should be decided before you
24 develop or argue your case. I just don't see it as an
25 issue that can wait.

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1 MR. JACOBS: So we'd fully prepared to present it to
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2 the panel on the time table that I proposed.

3 MR. BRUNET: The panel hasn't even received the test
4 results.

5 MR. JACOBS: Maybe we shouldn't. That's the point.
6 It all depends on this access issue, in my mind. I
7 mean, I know the rules that --

8 MR. BRUNET: There are a number of test results that
9 will not even be effected by the testimony that may come
10 our way.

11 MR. CAMPBELL: Well, that's an issue that's in
12 dispute, Mr. Brunet. I mean --

13 MR. BRUNET: I'm sorry. I missed that. I thought
14 some of the tests had been completed prior to that
15 Sunday incident.

16 MR. SUH: Mr. Brunet, this is Maurice. Yes, in
17 fact, some had been. But as I was trying to explain
18 before, our experts were excluded from critical parts of
19 the testing process even before they were excluded from
20 the building. They were excluded throughout from day
21 one through to the end. And they were also not allowed
22 to see critical documents, nor were they allowed to ask
23 questions. And this process was directed by USADA, and
24 we're prepared to prove it.

25 And I think Mr. Campbell is right that it does

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1 not depend upon what the test results area. The test
2 results could be all negative; they could be all
3 positive; they could be green or yellow or blue. It
4 doesn't matter. Whether or not the process was done

5 fairly is a threshold matter, and it doesn't matter
6 whether or not -- and frankly, it would save everyone,
7 including the panel, a lot of work.

8 We're going to have to reach these issues in
9 any case.

10 MR. CAMPBELL: Here's my thought. My thought is the
11 rules are pretty clear that (breakthrough) has a right
12 to be there, and I'm not so sure if the rules are clear
13 about other people have to be at the B testing. But it
14 seems to me that if that is an issue, let's get to the
15 bottom of it; let's get it resolved, and we can move on.
16 I hear a dispute. We should have with it resolved
17 before the hearing takes place.

18 MR. DUNN: This is Dan Dunn. Not to belabor it
19 because we have gotten off the agenda, but ultimately
20 what you're doing to have is a wholesale attack on all
21 of the samples by the athlete, and you're going to have
22 affidavits from us in response to that, and you're going
23 to have credibility issues to assess in that regard.
24 And if it's not limited to the Sunday results, this
25 could be a very prolonged process, and I suggest maybe

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1 it's just better to do this as part of the evidence that
2 will be presented like most evidence is handled.

3 MR. SUH: Well, no, no.

4 MR. JACOBS: It would be handled as a motion in
5 limine like it is in any civil trial.

6 MR. SUH: And moreover, one of the issues that we
7 save for briefing but I think really does bear
8 mentioning at this point is that the entirety of the

9 testing process occurred in the absence of the panel's
10 expert as required by paragraph 19 of Procedural Order
11 No. 2.

12 I mean, when the procedural order was written,
13 the safeguards that we were complaining about that there
14 was a lack of, the panel's response in procedural order
15 No. 2 in paragraph 19 was that our concerns would be
16 safeguarded by the presence of a panel expert, and
17 Dr. Botre wasn't there. He wasn't there for any part of
18 it.

19 MR. CAMPBELL: So we hadn't even picked -- this is
20 Chris Campbell -- at that point, had we?

21 MR. SUH: That's exactly my point. They could have
22 waited. We're patiently waiting to get the EDF's
23 because Dr. Botre wasn't appointed. We haven't gotten
24 our evidence. But USADA decided to go forward
25 unilaterally to go get their evidence. And that is what

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1 is unfair about this process. How is that fair? The
2 panel decided upon an expert, an independent expert who
3 was originally appointed because they were concerned
4 that we would tamper with the electronic data files.
5 That was the accusation filed by Rich Young on February
6 22. He leveled that accusation.

7 In response the panel said, "Okay. We'll
8 appoint an expert." During the course of that hearing,
9 we raised concerns which were symmetrical. The
10 concerns -- as they became fleshed out further on, the
11 concerns that if retesting occurred, that we wouldn't

12 have the assurance that there would be somebody there
13 protecting our rights. And the panel's response to it
14 was that a panel expert would be appointed to protect
15 our rights.

16 well, look at what's happened. Our rights have
17 not been protected in the retesting process, but their
18 rights are being protected by this whole EDF process.
19 We don't get our evidence till supposedly days before;
20 they are arguing nonetheless we should file our trial
21 brief without that evidence. And in the same breath
22 they argue that they themselves should have the benefit
23 of waiting to argue about the admissibility of this
24 evidence in the middle of the arbitration. That is
25 patently unfair. That is completely asymmetrical.

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1 MR. BRUNET: This is Mr. Brunet. I just want to
2 remind you that (breakthrough) your argument between the
3 EDF and the retesting process. I'd like to bring your
4 attention back to our interlocutory award.

5 The EDF prior to this arbitration, part of the
6 evidence, part of the raw evidence (breakthrough);
7 however, the testing is something that we have qualified
8 as being outside of the arbitration until such time that
9 the claimant wants to introduce it as evidence. And
10 I'll read back with you our paragraph 21 of the
11 interlocutory award.

12 "The authority of the panel is to rule on the
13 admissibility of evidence. It is not within the
14 authority of the panel to rule on the gathering of
15 potential evidence by any party. Once potential

16 evidence if obtained and when it is preferred as
17 evidence in the arbitration proceeding, then the panel
18 must rule on its admissibility as evidence."

19 And it seems to me that the results of the
20 retesting which you have provided to the panel have not
21 been provided to the panel by USADA yet. It may intend
22 to, but we don't have that indication at this point in
23 time. I would be -- although I understand very clearly
24 the pressing issues that you're raising, but it seems to
25 me that it would be premature for the panel to be

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1 receiving briefs by both parties at this point in time
2 as a preliminary matter for evidence that has not been
3 preferred by one of the parties. And those are my
4 observations at this point, and we want to be consistent
5 as well with our previous ruling.

6 MR. JACOBS: If I can just finish. I'm looking at
7 the interlocutory award. And in paragraph 19 it says,
8 "the interests of the athlete are protected in
9 permitting an analysis of the B samples through the role
10 of the panel's expert." That was clear to us, and I
11 thought to the panel as well, that this meant that this
12 retesting, if it went forward, would be in the presence
13 of the panel's expert.

14 It's one thing to say that the panel does not
15 have jurisdiction to prevent the evidence, but certainly
16 the panel has the jurisdiction to make sure that the
17 evidence it gets is legitimate evidence.

18 MR. BRUNET: With all due respect, Mr. Jacobs, I do

19 not understand our interlocutory award to specifically
20 request that a panel expert would be present at every
21 step of the retesting of the B sample. Our experts is
22 there to review the process and to advise the panel on
23 the various technical issues, including additional
24 evidence that may be preferred with the B sample. But
25 we're not there yet.

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1 MR. CAMPBELL: Patrice, here's my thrust. You've
2 got rules, and those rules are USADA protocol and WADA
3 protocol (phonetic.) Those rules say that, when you
4 test B samples, certain things have to happen. All
5 right? Now, if certain things don't happen, it seems to
6 me we have jurisdiction to determine that. It seems to
7 me we have jurisdiction to determine that any time,
8 which would include now. So I think we should determine
9 that because there's an issue in regards to whether
10 those rules were followed. The WADA code and USADA code
11 with respect to doping issues.

12 MR. SUH: Mr. Brunet, I guess my only observation on
13 paragraph 19 was that even USADA understood that the
14 panel's expert was due to be present because in their
15 letter to the panel, USADA itself said for the purpose
16 of coordinating with the panel's expert, we're going to
17 begin this retesting process on April 16. And it is not
18 clear to us how it is possible that the panel expert
19 could protect the interest of the athlete without being
20 present when the retesting is being done.

21 MR. JACOBS: And if I can add, a perfect example of
22 this dispute that we seem to be working up to now over

23 what our expert was allowed to see and now allowed to
24 see and what interference there was and what
25 interference there was not -- that's now going to be a

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1 credibility determination -- would not have been if this
2 whole thing had been done in front of the panel expert.
3 So now we have an additional complication by rushing to
4 do the one evidence while waiting on the other evidence.

5 MR. BRUNET: Well, it seems to be in either ruling
6 from the panel, we're going to take that under
7 advisement. And if you don't mind, I'd like to go back
8 to the our agenda unless you have any other issues. And
9 again the ruling of the panel should be very quick.
10 After this call, we'll continue our discussion between
11 the three of us and consider all the arguments that have
12 been made by both parties.

13 MR. JACOBS: The one question I have as a point of
14 clarification before we move off this point: When the
15 panel rules, it will advise whether or not it desires
16 this separate briefing that we've discussed?

17 MR. BRUNET: Brew that's my understanding of your
18 request, Mr. Jacobs.

19 MR. JACOBS: Okay. Thanks.

20 MR. SUH: Are we back on the briefing schedule issue
21 because we did have a proposal on the table, which I
22 thought met everyone's concerns that at least attempted
23 to fairly balance Mr. Landis's concerns against the
24 forward motion of this arbitration.

25 MR. BRUNET: Could you -- where were we at with the

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1 briefing schedule?

2 MR. SUH: We proposed that by tomorrow we would send
3 over a list of the issues and defenses so that USADA
4 would not be concerned that we would raise a defense
5 that Nazi frog men had come up and injected Mr. Landis
6 with testosterone and at the same time continue the
7 process of reviewing the SOP's and other documents that
8 are due to us and the EDF files which would be the
9 process which would begin on this coming Thursday, such
10 that we would have our opening brief filed by the 4th of
11 May and that Respondent's brief would be -- excuse me --
12 the claimant's brief would be filed on the 9th of May.

13 MR. BRUNET: My notes mention the 8th of May for the
14 claimant's rebuttal.

15 MR. SUH: That's fine with us.

16 MR. BRUNET: Okay.

17 And, Mr. Young, I recall you had an objection
18 to this proposal? Mr. Young?

19 We apparently have lost --

20 Rich, are you there?

21 Matt, are you there?

22 MR. BARNETT: I am here. We'll send someone to try
23 to find out when we lost Mr. Young.

24 On behalf of USADA, I'll renew our objection to
25 that schedule. It's interesting that they're now so

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1 willing to provide a simple list of defenses that we've
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2 been asking for for months and they're unable to provide
3 that.

4 MR. BRUNET: Mr. Barnett, the deadline is tomorrow.
5 That was part of the briefing schedule.

6 MR. BARNETT: Understood.

7 Let me just raise the additional concern that
8 not only does this affect the briefing schedule, but it
9 also affects the identification of witnesses. And I
10 believe, while it was quite a few minutes ago, that that
11 was Mr. Young's objection in part, was that that's a
12 very short time to find out when the witnesses are. And
13 I guess I haven't heard from Mr. Suh or Mr. Jacobs what
14 they propose on witness declaration.

15 MR. SUH: We could do it all at the same time.

16 MR. JACOBS: The witness statement schedule we're
17 not proposing any change to. It would be the witness
18 statements on May 4.

19 MR. SUH: We would just file everything at the same
20 time.

21 MR. BARNETT: Two points: We would certainly unable
22 to put in our witnesses without knowing your witnesses.
23 That was the reason that originally it was Mr. Suh who
24 suggested that the witness list be put in with the
25 rebuttal proposal.

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1 The other piece that concerns me -- and I was
2 on the call with Dr. Botre today. The understanding
3 with Dr. Botre -- and he sent the panel an e-mail that
4 the panel may not have had the chance to review -- is

5 that the electronic data files will be pulled on
6 Thursday. (Simultaneous speaking at this point.)

7 MR. BRUNET: I'm sorry. I missed that last
8 exchange.

9 MR. YOUNG: This is Rich Young. I'm trying -- I can
10 hear you guys. I'm trying to get on. Can you hear me?

11 MR. BRUNET: Yes, we can hear you.

12 MR. YOUNG: Thank you. Sorry to interrupt.

13 MR. BARNETT: And let me just continue the point on
14 Dr. Botre, and I'll turn it back over to Mr. Young.

15 The understanding with Dr. Botre is the
16 electronic data files will be collected on Thursday, and
17 the parties representatives and Dr. Botre will begin the
18 dialogue then as to what the next process is. I don't
19 believe there's any basis at this point for the
20 assertion that that is a process that will be done by
21 May 1. And so I worry about setting a briefing schedule
22 contingent on that when that's an unknown. And for that
23 reason, I would prefer the supplement approach.

24 MR. YOUNG: This is Rich. We've talked about all of
25 this before. The point -- we would agree with what I

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1 thought I heard the chairman saying before Mr. Suh spoke
2 over him, which was file your brief, and then you can
3 supplement.

4 And you know, it does us a little bit of good
5 but not a lot of good to simply give a list of issues
6 because, as you can tell from the test, the devil is in
7 the detail. And for us to properly prepare experts and
8 know what's coming, we need to know the detail. We

9 won't know the detail on the electronic data files, but
10 that's fine. There's nothing they can do about that.
11 We've all been waiting for that. We may not know the
12 detail on what they're going to say about the SOP's, but
13 we understand that, too. But to the extent that they've
14 had their defenses all along, they ought to file a
15 brief.

16 MR. BRUNET: Okay. Well, thank you, Mr. Young.

17 I guess we have a disagreement here, and that
18 will be another point that the panel will discuss and
19 take under advisement after this call, and that will be
20 part of the very last communication.

21 I guess while you're (breakthrough).

22 MR. JACOBS: We have a brief due tomorrow.

23 MR. BRUNET: I guess it's fair to say that you'll be
24 advised been the next couple hours.

25 MR. CAMPBELL: Patrice, we could give them a day,

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1 couldn't we? We could give them a day relief on the
2 brief just so we can resolve this issue.

3 Richard, does a day upset the timetable too
4 much?

5 MR. YOUNG: No. No, it does not.

6 MR. CAMPBELL: Okay. Well, Patrice, I think we just
7 can give them a day so that they have --

8 MR. BRUNET: We can certainly push the date -- you
9 can certainly take for granted that the date is pushed
10 to the 26th, notwithstanding the -- whatever direction
11 we give the parties. So you can take for granted it

12 (breakthrough). It will not be earlier than
13 (breakthrough) you requested. And you can sleep your
14 three hours.

15 MR. SUH: Let me emphasize to the panel that it's
16 not -- the issue is not, from our perspective, certainly
17 not the lack of sleep or anything like that. That's not
18 it at all.

19 The issue for us is really that the data that
20 we are awaiting on is so global in nature and so tied up
21 with the existing issues, especially those that are
22 raised by the Claimant, that we cannot fairly respond to
23 them in this timeframe. And to say that we are to file
24 a brief, whether it be tomorrow or Thursday, and then
25 supplement it is going to mean that we are going to have

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1 to write two briefs. That is what they are really
2 saying. And, in fact, I think Mr. Young explicitly
3 recognized it. He said, "If it changes, so be it. Make
4 them write it again."

5 And you know, again, when we look at the
6 relative amount of what has been taken by USADA and what
7 has been given to Mr. Landis in these proceedings, it's
8 just not fair. It's not fair. I mean, we're dealing
9 with all of these issues at the 'nth hour.

10 MR. BRUNET: You've made your point very clear to
11 the panel. I think you. We're going to move on to the
12 next point of being the proposed witness order.

13 MR. SUH: Mr. Brunet?

14 MR. BRUNET: Yes.

15 MR. SUH: It's Maurice. I have received a whispered

16 request from our reporter if we could take a brief
17 break. She has been typing away dutifully.

18 MR. CAMPBELL: This is Chris Campbell. I really
19 need a break.

20 MR. BRUNET: Let's all take a ten-minute break.
21 Let's all please stay on the line, and we will reconvene
22 in exactly ten minutes.

23 (A short recess was taken.)

24 MR. SUH: Hello?

25 UNIDENTIFIED SPEAKER: Hello.

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1 MR. SUH: Hello. It's Maurice, Howard, Dan, and our
2 court reporter. Are we back on line? We've got ten
3 minutes.

4 MR. BRUNET: Yeah, it's exactly ten minutes.

5 Mr. McLaren?

6 MR. MCLAREN: I'm here.

7 MR. BRUNET: Mr. Suh?

8 MR. SUH: Yes. I'm here with Howard Jacobs, Dan
9 weiss, and our court reporter.

10 MR. BRUNET: Thank you.

11 Mr. Barnett?

12 MR. BARNETT: Yes.

13 MR. BRUNET: Mr. Dunn?

14 MR. DUNN: Yes. Can you hear me? I'm on my way to
15 an airport; so I'm going to put it on mute most of the
16 time. Can you hear me okay?

17 MR. BRUNET: We can hear you fine. You can mute
18 your phone now. Thank you.

19 Let's go back to the agenda. Proposed witness
20 order. Have the parties had a chance to -- I think that
21 issue is resolved.

22 MR. SUH: Yes, I think that issue's resolved. Thank
23 you.

24 MR. BRUNET: Okay. Move on (breakthrough) media
25 order media consultant I'd like to set aside at this

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1 point in time. We're having discussions with the AAA.
2 And I think Carmen is coordinating a phone call with the
3 panel members by tomorrow. So we'll review and update
4 the parties on that subject very shortly.

5 The proposed confidentiality order, this was a
6 point that was raised by Mr. Saw.

7 MR. SUH: Mr. Brunet, I only included it on the
8 agenda for the panel's benefit. The panel had asked us
9 to prepare something and submit it for circulation. It
10 was really done to address the concerns raised a while
11 ago. I just wanted to put on the agenda just in case it
12 had passed the panel by but the panel would still
13 nonetheless have been interested in it.

14 If the panel is not interested in it anymore,
15 it's of no moment to us.

16 MR. BARNETT: This is Matt Barnett. I mean, for
17 context, that proposed confidentiality order arose out
18 of our concerns regarding gamesmanship with the press,
19 as the panel will recall. We filed a recent submission
20 on that. I would suggest that those two issues are
21 probably related in some way to the proposed media
22 order and media consultant, but I'll defer to the panel.

23 MR. BRUNET: That's what the panel understood as
24 well. And we will discuss this matter among ourselves
25 and update you on our position.

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1 The following point is the briefing schedule.
2 Do we have anything else to add on this point, or can I
3 understand that we have extensively discussed this point
4 and that it's in the hands of the panel now?

5 MR. SUH: I think we have discussed it at sufficient
6 length unless the panel has further questions of it.

7 MR. CAMPBELL: I think we've beat it to death. This
8 is Chris Campbell.

9 MR. BRUNET: I'm sorry? I didn't get that, Chris.
10 what did you say?

11 MR. CAMPBELL: I think we beat that issue to death.

12 MR. BRUNET: Okay. Thank you.

13 The setting of the final status conference,
14 those technical points are very valid such as length of
15 arbitration day, length of each of the cases of each of
16 the parties. Unless there's a pressing issue today to
17 resolve this or to discuss this, there's still a few
18 things that we need to -- technical matters that we need
19 to discuss with Pepperdine University and the media
20 consultant and the coordination of it all. So I would
21 suggest that we keep this point for further discussion
22 perhaps next week.

23 MR. CAMPBELL: Patrice, this is Chris Campbell.
24 Regarding the setting of the final status conference,
25 I'm just wondering if either of the parties have a

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1 comment or suggested date for that.

2 MR. SUH: I would think that final status conference
3 we would want to hold at some time the middle of the
4 week preceding the 8th or 9th. But I would encourage
5 all of us to define these issues because they do relate
6 pretty severely to witness schedule.

7 In particular, the order of the witnesses. We
8 have many witnesses who are coming from out of town, and
9 they are asking us, very fairly, when they should be
10 here. And the length of the arbitration day and the
11 protocol for taking some of these people out of order is
12 going to make a huge difference on ease and convenience.

13 I would suggest one way to ease the concern of
14 putting together this kind of really event is to have a
15 fairly liberal policy taking witnesses out of order just
16 to accommodate schedules. Because this is a highly
17 technical case, we have professionals testifying, and
18 their schedules are busy. So I think it's important for
19 us to at least know that we can do that. And that might
20 ease some of our concerns.

21 MR. CAMPBELL: Mr. Suh, have you discussed with this
22 USADA?

23 MR. SUH: We have not discussed it with USADA.

24 MR. CAMPBELL: And, Patrice, if you don't mind, I'm
25 just wondering if your guys could work together and see

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1 if you could present us with some kind of schedule
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2 jointly so that we could, hopefully, just send orders on
3 the 9th or the 10th of May.

4 MR. SUH: All right. That would be fine. We're
5 circulate something.

6 MR. CAMPBELL: Patrice, are you comfortable with
7 that?

8 MR. BRUNET: Yeah. We're on the same page as Chris.
9 We would rather the parties, obviously, hammer this out
10 in as much detail as possible. And obviously the panel
11 can resolve issues, but I don't think that those issues
12 may be so big that you need the intervention of the
13 panel.

14 There will also be requirement for an in-person
15 coordination meeting probably the day prior of the first
16 day of the hearing, being the 14th. So whether it's the
17 day prior or two days prior, depending on the travel
18 schedule for everyone, it's also something we want to
19 keep in mind. I'd like the parties and the panel to sit
20 down together at least a day before the start of the
21 hearing so that we get all those technicalities out of
22 the way and we can all be on the same page on May 14.

23 MR. CAMPBELL: Patrice, what time do you think that
24 meeting would take place?

25 MR. BRUNET: What time? Well, I'll let the parties

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1 discuss it among themselves. I will be in the city at
2 least two days in advance. Do I assume rightly, Chris
3 and Richard, that you will both be there at least a day
4 in advance?

5 MR. YOUNG: Correct.

6 MR. CAMPBELL: This is Chris Campbell. I'm
7 scheduled to fly in on Sunday. I'm not quite sure what
8 time I'm scheduled to fly in. I'll move it up if I have
9 to.

10 MR. BRUNET: The parties can (breakthrough) the
11 afternoon of Sunday, the 13th, is maybe most convenient
12 for Chris. Because I would assume you would be
13 traveling a short flight in the morning?

14 MR. CAMPBELL: I'm one of the closest. So it's more
15 your convenience, your and Richard's convenience. But I
16 just need to know because I would need to change my
17 flight maybe.

18 MR. BRUNET: Well, certainly, it won't any later
19 than Sunday afternoon. So let's try and shoot for that
20 time to meet in person.

21 So on this point, is it fair to assume that the
22 parties will discuss together --

23 MR. SUH: Hello?

24 MR. BRUNET: Hold on just a second. I'm just
25 getting back to my agenda.

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1 Okay. Do you want to set a date by which the
2 parties will communicate those technical details to the
3 panel?

4 MR. SUH: Yes. How about by Friday?

5 MR. BRUNET: Friday what? May the 4th or the
6 previous Friday? This coming Friday?

7 MR. SUH: This coming Friday.

8 MR. BRUNET: Mr. Young (breakthrough).

9 I didn't hear anything. Mr. Young or Barnett?
10 UNIDENTIFIED SPEAKER: That's fine with us. I
11 didn't hear.
12 MR. CAMPBELL: This is Chris Campbell. This Friday?
13 MR. SUH: Right.
14 MR. BRUNET: This Friday. Okay.
15 MR. YOUNG: This is Rich Young. Can you hear me?
16 MR. CAMPBELL: Yeah.
17 MR. BRUNET: Now we can hear you.
18 MR. YOUNG: Okay. And is Matt Barnett on, too?
19 MR. BARNETT: I'm on.
20 MR. YOUNG: Okay. Good.
21 MR. BRUNET: The parties will establish the
22 technical details for the hearing and communicate that
23 to the panel.
24 I understand also -- going back to the agenda,
25 we're on point No. 7 that was added, the result of the B

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1 test. I understand that we covered that issue, and the
2 final point is the request for continuance.
3 Mr. Suh, do you still want to hold that point
4 or explain that point to the panel?
5 MR. SUH: Well, I mean, first of all, yes. We renew
6 our request. It is unclear to us if -- and I know part
7 of this depends upon some of the rulings that will come.
8 But it is unclear to us how we would be able to
9 adequately prepare to basically try results from a
10 number of different IRMS tests which the documents that
11 we won't get till days before. And we're not even sure

12 what the scope of those documents are.

13 USADA has announced its intention once those
14 documents come in to try to use those test results, and
15 we know that issue is coming.

16 Yeah, the request is renewed. We can argue it.
17 I feel like we have argued this point in great detail in
18 terms of scheduling, and we've made all the points that
19 apply to our need for additional time on our briefing
20 equally apply to the need for more time.

21 MR. BRUNET: Mr. Young and Mr. Barnett, do you have
22 a request for continuance?

23 MR. YOUNG: This is Rich. We would defer to the
24 panel's judgment in terms of what is the fair and right
25 thing to do in this case. The one thing that we

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1 absolutely do not want to see happen is to end up in
2 some sort of bifurcated trial where we all go away and
3 then have to come back again at some, you know, months
4 later date when that would be very inefficient.

5 As to the retesting in specific, we wouldn't be
6 in this situation had they not objected to the retesting
7 months and months ago.

8 MR. SUH: And just to make perfectly clear, the
9 amount of time that was spent in fairly considering this
10 issue by the panel is far less than the amount of time
11 that they could have used to test that right after the
12 tour occurred. This is their case. They brought it.
13 And it was their responsibility to handle it in an
14 appropriate way. And now --

15 MR. BRUNET: Mr. Suh, I didn't get the sense that

16 Mr. Young was finished with his statement.

17 MR. YOUNG: I actually was finished. Thank you,

18 Mr. Brunet.

19 MR. BRUNET: Okay. I'm sorry.

20 Please go on, Mr. Suh.

21 MR. SUH: I'm finished also. I just -- we've

22 repeatedly heard that somehow we are at fault here on

23 the final schedule. And from our perspective, we have

24 repeatedly tried to make sure that these matters are

25 handled quickly. Again, it does us no good at all -- it

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1 does us no good at all to wait till the last minute.

2 MR. BARNETT: This is Matt Barnett. And I think

3 it's only fair that the record reflect that our original

4 submission to the panel -- and I don't have the month

5 for you. I'm sorry. But many months ago when they

6 objected to the retesting was that we go forward and do

7 it and that the objection as to admissibility be

8 preserved in order to avoid exactly the time of crunch

9 that they're now objecting to. And so it is completely

10 fair that the blame for any last minute rush rests

11 squarely on their shoulders because they have taken

12 every maneuver possible to try to prevent that

13 additional analysis from occurring.

14 MR. JACOBS: Real quickly in response. The point

15 that USADA is missing is that these samples with

16 collected in July and they didn't raise the issue about

17 retesting until nearly January. That's the point that

18 we're making. When they say that the delay is

19 exclusively our fault, they completely ignore the part
20 where they waited six months to even bring it up.

21 MR. BARNETT: And we raised it in response to
22 defenses that were asserted, specifically the defense
23 that how can the test on the subject sample be accurate
24 if it is the only positive test. And when we did raise
25 it in January, we were threatened with federal

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1 litigation. So I think the record is clear on this
2 point, and we'll stand on the record.

3 MR. SUH: I think the record stands on your conduct.

4 MR. BRUNET: Gentlemen, thank you. We've gone
5 through the agenda. It's been two and a quarter hours.

6 Mr. Suh, unless you have any final comments or
7 questions for the panel?

8 MR. SUH: No. Thank you very much for convening
9 this call on our request and on short notice while
10 you've been traveling.

11 MR. BRUNET: Mr. Campbell, Mr. McLaren, do you have
12 any questions for the parties?

13 MR. MCLAREN: No.

14 MR. CAMPBELL: No.

15 MR. BRUNET: Well, thank you everyone for being on
16 this call with the various differences. It is
17 challenging, but nothing is impossible in this world.
18 So thank you.

19 And you should be receiving follow-up messages
20 from the panel as I indicated earlier in the
21 conversation. You should receive that over the next
22 hours.

23 Thank you very much. Goodbye.
24 (The status conference was concluded at
25 6:14 p.m.)

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1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) ss.

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4 I, RUTH R. PEREZ, Certified Shorthand Reporter,
5 RPR, CSR No. 12726, certify:

6 That the foregoing pages were recorded
7 stenographically by me and were thereafter transcribed;

8 That the foregoing transcript of status conference
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10 I further certify that I am neither counsel for nor
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13 IN WITNESS WHEREOF, I have subscribed my name this
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